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Barry E. Bretschneider
Morrison & Foerster, LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888

In re Application of
KENT, et al.
Application No.: 09/831,307
PCT No.: PCT/AU99/00989
Int. Filing Date: 09 November 1999
Priority Date: 09 November 1998
Attorney Docket No.: 229752001400
For: A VIPOX VECTOR CODING AN HIV
ANTIGEN AND A CYTOKINE

COMMUNICATION

This communication is in response to applicant's "Response to Notification Regarding Defective Declaration" filed 23 January 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 January 2003, applicant was mailed a Notification informing applicant that the declaration filed 07 January 2002 was defective as the declaration set forth an additional inventor (David Bernard Boyle) who has not been named in the international application. Applicant was afforded one month to file either: 1) a submission under 37 CFR 1.497(d) requesting correction of the inventors named in the international application to include David Bernard Boyle, (2) a new declaration naming and signed by only by Stephen Kent and Ian Allister Ramshaw accompanied by an acceptable explanation of the misnaming of the inventor on the present declaration, or (3) a showing that a change under PCT Rule 92bis was made prior to the National stage filing.

On 23 January 2003, applicant filed the present response which included a copy of Form PCT/IB/306 showing that the status of applicant David Bernard Boyle had been changed pursuant to PCT Rule 92bis to applicant/inventor for the US only.

DISCUSSION

Applicant has presently provided evidence that David Bernard Boyle is an applicant/inventor for the United States only. As such it is proper to find the declaration filed on 07 January 2002 as compliant with 37 CFR 1.497(a)-(b). Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

Applicant has made a sufficient showing such that the declaration filed 07 January 2002 is held to be a proper reply to the Notification of Defective Response (Form PCT/DO/EO/916) mailed 06 December 2001.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this communication. The 35 U.S.C. 371(c) date is **07 January 2002**.



Richard Cole
Legal Examiner
PCT Legal Office



Derek A. Putonen
Attorney Advisor
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459